

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ED COLLINS,	:	CIVIL ACTION NO. 1:09-CV-1599
	:	
Plaintiff	:	(Judge Conner)
v.	:	
	:	
DANIEL BOYD, KEVIN FREIL,	:	
JAMES HART, SALLIE RODGERS,	:	
PENNSYLVANIA DEPARTMENT	:	
OF PUBLIC WELFARE,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 9th day of April, 2010, upon consideration of defendants' appeal (Doc. 48) from the magistrate judge's order (Doc. 46) dated January 11, 2010, which sanctioned defendants in the amount of \$300 for failing to provide timely responses to plaintiff's discovery requests, and it appearing that plaintiff served discovery requests upon defendants on October 13, 2009, that defendants filed a motion (Doc. 39) to stay discovery on November 18, 2009, that defendants did not respond to plaintiff's discovery requests pending resolution of the motion to stay, that the magistrate judge ultimately determined that a stay was not appropriate under the circumstances, and held that defendants therefore failed to timely respond to plaintiff's interrogatories and document requests, and it further appearing that the magistrate judge imposed a discovery sanction without first notifying defendants of the court's intent to do so, or permitting defendants to show cause why they should not be sanctioned, and the court concluding that such an oversight was an abuse of discretion, see Scott Paper Co. v. United States,

943 F. Supp. 501, 502 (E.D. Pa. 1996) (explaining that the district court “may overrule a decision of the Magistrate Judge involving a nondispositive discovery dispute only if the decision is clearly erroneous or contrary to law, or if the Magistrate Judge abused his discretion”); see also L.R. 72.2; FED. R. CIV. P. 72(a), it is hereby ORDERED that defendants’ appeal (Doc. 48) from the magistrate judge’s order (Doc. 46) dated January 11, 2010 is GRANTED. The provision of the magistrate judge’s order (Doc. 46) imposing \$300 in discovery sanctions is VACATED.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge